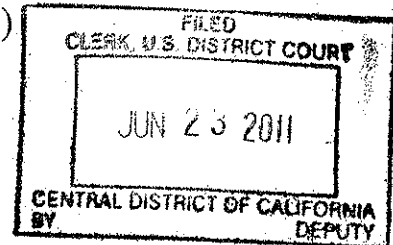


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Attorneys for Plaintiff  
BAGDASARIAN PRODUCTIONS, LLC

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**LACV11-5270** CAS(MRWx)  
CASE NO.:

BAGDASARIAN PRODUCTIONS, LLC, a California limited liability company,

Plaintiff,

v.

THE JERRY NAYLOR COMPANY, LLC, an Oregon limited liability company, dba NAYCO ENTERTAINMENT GROUP, JERRY NAYLOR, an individual, SAN JUAN MUSIC GROUP LTD., a New Jersey corporation, MICHAEL CHERNOW, an individual, MEGABOP RECORDS LTD., trading as MBOP DIGITAL, and DOES 1-10, inclusive,

Defendants.

**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR:**

- (1) **FEDERAL TRADEMARK INFRINGEMENT;**
- (2) **FALSE DESIGNATION OF ORIGIN AND FALSE ADVERTISING UNDER SECTION 43(a) OF THE LANHAM ACT;**
- (3) **DILUTION UNDER SECTION 43(c) OF THE LANHAM ACT;**
- (4) **COMMON LAW TRADEMARK INFRINGEMENT;**
- (5) **UNFAIR COMPETITION UNDER CAL. BUSINESS & PROFESSIONS CODE §17200, et seq.; and**
- (6) **COPYRIGHT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Bagdasarian Productions, LLC, a California limited liability company,  
 2 (hereinafter "Bagdasarian"), by and through its undersigned counsel, for its  
 3 Complaint, alleges as follows:  
 4

## 5 I. JURISDICTION AND VENUE

6 1. This is an action for trademark and service mark infringement, copyright  
 7 infringement, and unfair competition arising under the laws of the United States, 15  
 8 U.S.C. §1051, *et seq.*, and 17 U.S.C. §101, *et seq.*, as well as under the common law  
 9 and statutes of the State of California.

10 2. This Court has subject matter jurisdiction under 28 U.S.C. §1338(a) and  
 11 (b), and under the Court's supplemental jurisdiction, 28 U.S.C. § 1367(a). Venue is  
 12 proper in this district pursuant to 28 U.S.C. §1391(b) in that a substantial part of the  
 13 property that is the subject of the action is situated within this judicial district, and in  
 14 that Bagdasarian is informed and believes, and alleges thereon, that a substantial part  
 15 of the events or omissions giving rise to the claim occurred in this judicial district.  
 16

## 17 II. THE PARTIES

18 3. Plaintiff Bagdasarian is a California limited liability company with its  
 19 principal place of business in Santa Barbara County, State of California.

20 4. Bagdasarian is informed and believes and thereon alleges that defendant  
 21 The Jerry Naylor Company, LLC, dba Nayco Entertainment Group ("Nayco"), is an  
 22 Oregon limited liability company that maintains a corporate office at 1279 SW Russ  
 23 Lane, McMinnville, Oregon. Nayco globally distributes songs through digital stores  
 24 such as Amazon.com and iTunes. Nayco has engaged in substantial, continuous and  
 25 systematic activities within California; Nayco purposefully availed itself of the  
 26 privilege of conducting its music distribution activities within California; and the  
 27 causes of action asserted herein arose out of Nayco's contacts with California.

28 5. Bagdasarian is informed and believes and thereon alleges that defendant

1 Jerry Naylor ("Naylor") is an individual residing in Oregon and a member of Nayco;  
 2 and at all times controlled the actions of Nayco and acted on its behalf.

3 6. Bagdasarian is informed and believes and thereon alleges that defendant  
 4 Megabop Records Ltd., trading as Mbop Digital ("MBop"), is a business entity of  
 5 form unknown that maintains a corporate office at 40 Bowling Green Lane,  
 6 Clerkenwell, London, EC1R 0NE, United Kingdom. MBop globally distributes songs  
 7 through digital stores such as Amazon.com and iTunes. MBop has engaged in  
 8 substantial, continuous and systematic activities within the United States or within  
 9 California; MBop purposefully availed itself of the privilege of conducting its music  
 10 distribution activities within the United States or within California; and the causes of  
 11 action asserted herein arose out of MBop's contacts with the United States or  
 12 California.

13 7. Bagdasarian is informed and believes and thereon alleges that defendant  
 14 San Juan Music Group, Ltd. ("San Juan") is a New Jersey corporation that maintains a  
 15 corporate office at 499 Ernston Road, Parlin, New Jersey. Bagdasarian is informed  
 16 and believes, and thereon alleges, that San Juan is a music production and licensing  
 17 company. San Juan has engaged in substantial, continuous and systematic activities  
 18 within California; San Juan purposefully availed itself of the privilege of conducting  
 19 its music distribution activities within California; and the causes of action asserted  
 20 herein arose out of San Juan's contacts with California.

21 8. Bagdasarian is informed and believes and thereon alleges that defendant  
 22 Michael Chernow ("Chernow") is an individual residing in New Jersey and president  
 23 of San Juan; and at all times controlled the actions of San Juan and acted on its behalf.

24 9. Bagdasarian is informed and believes and thereon alleges that DOES 1-  
 25 10, inclusive, are, and at all times relevant hereto were, employed and controlled by  
 26 defendants, and exercise substantial authority in devising and implementing policies  
 27 of defendants. The true names and capacities of the defendants sued as DOES 1-10,  
 28 inclusive, are unknown to Bagdasarian. The names and capacities, and relationships

1 of defendants named as DOES 1-10 will be alleged by amendment to this complaint  
 2 when they are known. Bagdasarian is informed and believes and thereon alleges that  
 3 said DOE defendants were at all times agents of the named defendants Nayco, Naylor,  
 4 MBop, San Juan and Chernow, and of each other.

### 6 III. FACTS COMMON TO ALL COUNTS

7 10. Alvin and The Chipmunks is a famous, award-winning music group,  
 8 consisting of three singing animated chipmunks: Alvin, Simon and Theodore. Since  
 9 1961, the members of the music group have also been portrayed as animated  
 10 characters, first in cartoons and later in CGI form. The music group, including the  
 11 members' distinctive singing styles, voices, and personalities, was created by  
 12 Plaintiff's predecessor Ross Bagdasarian, Sr., who portrayed the manager of the  
 13 group, "David Seville," for many years after the group's creation.

14 11. Until his death in 1972, Ross Bagdasarian, Sr., performed the voices of  
 15 the Alvin and the Chipmunks music group. Alvin and the Chipmunks music  
 16 recordings have been and remain extremely popular, well-known to the public, and  
 17 have been awarded no fewer than three Grammy awards for songs which include "The  
 18 Chipmunk Song (Christmas Don't Be Late)."

19 12. Plaintiff and its predecessors and their licensees have manufactured and  
 20 distributed audio-visual entertainment products, musical recordings, entertainment  
 21 services, and merchandise such as books, toys, games and clothing featuring Alvin  
 22 and the Chipmunks, and since at least 1959 they have used the famous "Alvin and the  
 23 Chipmunks" mark on one or more of such products in interstate commerce, including  
 24 the State of California. Such products have also been distributed throughout the  
 25 world, under license from Plaintiff and its predecessors.

26 13. In addition to owning the common law mark "Alvin and the Chipmunks"  
 27 in connection with a wide variety of entertainment products, services, and associated  
 28 merchandise, Plaintiff owns and utilizes the following federally registered marks:

- 1 • Registration No. 3,429,855 for “ALVIN AND THE CHIPMUNKS” in the
- 2 field of audio-visual records and related goods (Class 9);
- 3 • Registration No. 3,421,801 for “ALVIN AND THE CHIPMUNKS” in the
- 4 field of clothing (Class 25);
- 5 • Registration No. 3,425,740 for “ALVIN AND THE CHIPMUNKS” in the
- 6 field of toys and games (Class 28);
- 7 • Registration No. 2,935,726 for “ALVIN AND THE CHIPMUNKS” in the
- 8 field of entertainment services, namely a series of TV cartoons (Class 41);
- 9 and
- 10 • Registration No. 3,552,620 for “ALVIN AND THE CHIPMUNKS” in the
- 11 field of printed matter and paper goods (Class 16).

12 True and correct copies of these above-identified five (5) registrations are attached as  
 13 Exhibit A. All of the aforesaid federal registrations of “ALVIN AND THE  
 14 CHIPMUNKS” are registered on the Principal Register and are, thereby, prima facie  
 15 valid service marks and trademarks of Plaintiff.

16 14. The Alvin and the Chipmunks marks have acquired such goodwill,  
 17 widespread fame, and secondary meaning that the public has come to associate the  
 18 Alvin and the Chipmunks marks exclusively with a single source, *i.e.*, Plaintiff.

19 15. Entertainment products created by the licensees of Plaintiff or its  
 20 predecessors include a prime time animated television series broadcast on CBS in  
 21 1961 and 1962, entitled *The Alvin Show*, an animated television series produced  
 22 between 1983 and 1991, entitled *Alvin and the Chipmunks*, a 1999 film entitled *Alvin*  
 23 *and the Chipmunks Meet Frankenstein*, a 2000 film entitled *Alvin and the Chipmunks*  
 24 *Meet the Wolfman*, and several television specials.

25 16. In addition, licensees of Plaintiff released in 2007 a live-action/CGI  
 26 comedy film entitled *Alvin and the Chipmunks* and released in 2009 a sequel entitled  
 27 *Alvin and the Chipmunks: The Squeakquel*, which generated approximately \$430  
 28 million in theatrical motion picture box office revenues in the U.S. and Canada, and



1 \$800 million in theatrical motion picture box office revenues worldwide. The two  
 2 motion pictures sold in excess of 12 million DVDs in the U.S. and Canada, and 22  
 3 million DVDs worldwide. The soundtrack for the *Alvin and the Chipmunks* 2007 film  
 4 was released as a CD in 2007 (hereinafter sometimes “the Authorized CD”), and has  
 5 been sold widely throughout the United States and internationally. The soundtrack  
 6 contains licensed recordings of “The Chipmunk Song.” Additionally, the soundtrack  
 7 for the *Alvin and the Chipmunks: The Squeakquel* 2009 film was released as a CD in  
 8 2009 and has been sold widely throughout the United States and internationally.  
 9 Approximately 1.8 million copies of the 2007 and 2009 film soundtrack CDs have  
 10 been sold in the United States, and approximately 2.5 million individual tracks from  
 11 the soundtrack CDs have been legally downloaded. A true copy of the packaging  
 12 from the 2007 film soundtrack (the Authorized CD) is attached hereto, marked Exhibit  
 13 B, and incorporated herein by this reference. It has a suggested retail price of \$16.98  
 14 and Bagdasarian is informed and believes, and alleges thereon, has been sold new  
 15 through retail channels at prices ranging between \$9.50 and \$16.98. The Authorized  
 16 CD referenced by Exhibit B has been sold through ordinary commercial channels for  
 17 musical recordings, including, but not limited to, such retail outlets as Amazon.com,  
 18 and others. Plaintiff is informed and believes, and alleges thereon, that a substantial  
 19 portion of the consumers of its Authorized CD consist of young children, who are  
 20 often incapable of closely examining CD packaging to distinguish between genuine  
 21 products such as those licensed by Plaintiff, and shoddy knockoff products such as  
 22 those manufactured and/or distributed by defendants.

23 17. Bagdasarian owns the copyrights in the composition “The Chipmunk  
 24 Song” (Registration Nos. RE0000315031 and RE0000363178), which is an original  
 25 work of authorship and copyrightable subject matter under the laws of the United  
 26 States. Bagdasarian also owns the copyright in the illustrations attached hereto as  
 27 Exhibits C (for which Bagdasarian has submitted an application for copyright  
 28 registration, Application Date June 2, 2011, Case No. 1-615044811) and D

(Registration No. RE0000509368) (collectively, the “Artwork”), which are original works of authorship and copyrightable subject matter under the laws of the United States. True and correct copies of records obtained from the U.S. Copyright Office’s web site reflecting the above-mentioned registrations and application are attached hereto as Exhibit E.

18. Defendants Nayco, Naylor, MBop, San Juan and Chernow (collectively, “Defendants”) have produced, distributed and marketed on Amazon.com and other Internet sites an “album” of digital recordings entitled “A Tribute to Alvin and The Chipmonks,” by “Alvin and The Chipmonks” (the “Infringing Album”). The Infringing Album is a cheap, artistically inferior knockoff that copies the Chipmunks soundtrack album and confuses the public concerning its source of origin by using a nearly identical set of songs as follows:

<b>“A Tribute To Alvin &amp; The Chipmonks” Track Listing</b>		<b>Alvin &amp; The Chipmunks Track Listing</b>	
Title	Track #	Title	Track #
Bad Day / Bad Day (Melody Remix)	2 / 3	Bad Day	1
The Chipmunk Song (Christmas Don’t Be Late)	11	The Chipmunk Song (Christmas Don’t Be Late) (DeeTown OG Mix) / The Chipmunk Song (DeeTown Rock Mix) / The Chipmunk Song (classic version)	2 / 7 / 16
Follow Me Now / Follow Me Now (Melody Remix)	5 / 6	Follow Me Now	3
How We Roll	9	How We Roll	4
Witch Doctor	12	Witch Doctor / Witch Doctor (classic version)	5 / 15

		Come Get It	6
Funky Town	7	Funkytown	8
Get You Goin'	8	Get You Goin'	9
Coast 2 Coast	4	Coast 2 Coast	10
Mess Around	10	Mess Around	11
		Only You (And You Alone)	12
Ain't No Party	1	Ain't No Party	13
		Get Munk'd	14

A true and correct copy of the Infringing Album's listing as it appeared on Amazon.com is attached hereto as Exhibit F.

19. As shown in Exhibit F, the Infringing Album displays cover art which closely copies the Artwork owned by Bagdasarian (Exhibits C and D).

20. Bagdasarian is informed and believes and thereon alleges that Defendants are in the business of creating, marketing and distributing music and entertainment CDs, and sell their products online at retailers such as Amazon.com, iTunes, and others.

21. Bagdasarian is informed and believes and thereon alleges that Defendants embarked upon a malicious and dishonest scheme shortly after the commercial success of Plaintiff's licensed 2007 film *Alvin and the Chipmunks*. Specifically, Defendants embarked upon a plan to fabricate and distribute a cheap knockoff of the Authorized CD containing 12 recordings which are compositions found on the Authorized CD that has sold more than 1,000,000 copies.

22. In order to further the scheme to deceive the public into believing that its unlicensed album was authorized, endorsed by, associated or affiliated with Plaintiff



1 or its licensees, Defendants entitled the Infringing Album "A Tribute To Alvin and  
 2 The Chipmonks," identified the performers of the Infringing Album as "Alvin and  
 3 The Chipmonks," and recorded the songs in a manner strikingly similar to the  
 4 recordings on the licensed soundtrack. Defendants used advertising containing the  
 5 Alvin and the Chipmunks trademark, intending to deceive members of the public into  
 6 believing that they were authorized, endorsed, sponsored by, or otherwise affiliated  
 7 with the Plaintiff or its licensees, as demonstrated in Exhibit F. Defendants have sold  
 8 the Infringing Album in some of the same channels of commerce as Plaintiff's  
 9 Authorized CD, *e.g.*, such retailers as Amazon.com. The Infringing Album had a list  
 10 price of \$6.99 on Amazon.com, a price that, due to Defendants' failure to pay  
 11 licensing fees, unfairly undercut the licensed soundtrack list price and stole sales from  
 12 the Authorized CD.

13 23. Bagdasarian has never licensed, or otherwise authorized, the use of the  
 14 Alvin and the Chipmunks trademarks or service marks to Nayco, Naylor, MBop, San  
 15 Juan or Chernow, or to any defendant.

16 24. Defendants did not obtain a mechanical license for the composition "The  
 17 Chipmunk Song." Bagdasarian has never licensed, or otherwise authorized,  
 18 Defendants to reproduce, distribute, or create derivative works based upon the  
 19 composition.

20 25. Bagdasarian has never licensed the use of Plaintiff's copyrighted  
 21 Artwork to Nayco, Naylor, MBop, San Juan, or Chernow, or to any defendant.

#### 22 23 IV. FIRST CLAIM

##### 24 Federal Registered Trademark and Service Mark Infringement

25 (by Plaintiff against all Defendants)

26 26. Bagdasarian restates each and every allegation contained in paragraph 1  
 27 through 25 above, as though fully stated herein.

28 27. Since 1958, Bagdasarian and its predecessors have expended time,

1 money and resources in developing the distinctive Alvin and the Chipmunks  
2 trademarks and service marks. Since at least 1959, Bagdasarian has marketed its  
3 Alvin and the Chipmunks trademarks and service mark through numerous Alvin and  
4 the Chipmunks entertainment products, services and merchandise in interstate  
5 commerce, including, but not limited to, California.

6 28. Bagdasarian has registered its valuable Alvin and the Chipmunks marks  
7 on the dates set forth in Exhibit A. Bagdasarian owns sole and exclusive rights to  
8 distribute, reproduce, and to publicly display the Alvin and the Chipmunks marks for  
9 products and service.

10 29. The distribution, reproduction and public display of the Alvin and the  
11 Chipmunks marks by Defendants in connection with the creation and marketing of the  
12 Infringing Album has misled consumers and the general public, including those in  
13 California, to believe that the Infringing Album is authorized, endorsed by, sponsored  
14 by, affiliated with, or otherwise connected to Plaintiff. This false association,  
15 intentionally created by Defendants, is likely to cause confusion, mistake and  
16 deception with the general public, including California residents.

17 30. The aforesaid acts of Defendants constitute infringement of  
18 Bagdasarian's registered Alvin and the Chipmunks trademarks in violation of Section  
19 32(1) of the Trademark Act of 1946, as amended, 15 U.S.C. §1114(1).

20 31. By reason of Defendants' acts as alleged, Bagdasarian has suffered and  
21 will suffer damage to its business, reputation and good will, and the loss of sales and  
22 profits that Bagdasarian would have made, but for Defendants' unethical and illegal  
23 acts.

24 32. Unless restrained and enjoined by this Court, Defendants threaten to and  
25 will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It  
26 would be difficult to ascertain the amount of compensation that would afford  
27 Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial  
28 proceedings would be required. Thus, Bagdasarian's remedies at law are not adequate

1 to compensate it for the threatened injuries.

2 33. Bagdasarian is entitled to injunctive relief, both preliminary and  
3 permanent, restraining Defendants and their agents, servants, employees and all  
4 persons acting under, in concert with, or on behalf of Defendants from using  
5 Bagdasarian's Alvin and the Chipmunks trademarks in any channel of commerce and  
6 in any geographical territory in the world.

7 34. As a direct and proximate result of Defendants' conduct and actions, and  
8 each of them, Bagdasarian has also suffered damages in an amount to be proven in  
9 trial, plus interest at the legal rate thereon, but no less than \$1 million.

10 35. As a direct and proximate result of Defendants' wrongful conduct and  
11 actions, and each of them, Bagdasarian is informed and believes, and alleges thereon,  
12 that Defendants have been unjustly enriched in the sum of no less than \$1 million.

13 36. As a direct and proximate result of Defendants' wrongful conduct and  
14 actions, and each of them, Bagdasarian is entitled to restitution and a complete  
15 disgorgement of any and all amounts of money, revenue, or income Defendants have  
16 received as a result of their wrongful conduct as alleged above.

17 37. Pursuant to 15 U.S.C. §1117(a), the Court may enter judgment for three  
18 times Bagdasarian's damages and award a reasonable attorney's fee.

## 19 20 V. SECOND CLAIM

21 False Designation of Origin and False Advertising in Violation of Section 43(a)  
22 of the Lanham Act, 15 U.S.C. §1125(a)

23 (by Plaintiff against all Defendants)

24 38. Plaintiff restates each and every allegation contained in paragraphs 1-37  
25 above, as if fully stated herein.

26 39. Plaintiff and its predecessors have, during the past 50 years, spent  
27 substantial time, money and resources in developing distinctive common law  
28 trademarks in and to the term Alvin and the Chipmunks, for use in connection with

1 entertainment products and merchandise. In addition, Plaintiff is the owner of the  
2 registered Alvin and the Chipmunks trademarks, as set forth above.

3 40. Defendants, on and in connection with goods or services, and in the  
4 advertising for the Infringing Album, have used in commerce words, terms, names,  
5 symbols and devices, false advertising and false designations of origin which are  
6 likely to cause confusion, to cause mistake, or to deceive members of the public as to  
7 the affiliation, connection, or association of defendants with Bagdasarian, and to cause  
8 confusion, to cause mistake, or to deceive as to the origin, sponsorship or approval of  
9 Nayco's, MBop's and San Juan's goods, services, and commercial activities by  
10 members of the general public.

11 41. The confusion, mistake or deception referred to herein arises out of the  
12 aforesaid acts of Defendants, and constitutes false designation of origin and unfair  
13 competition in violation of Section 43(a) of the Trademark Act of 1946, as amended,  
14 15 U.S.C. §1125(a).

15 42. The aforesaid acts were undertaken willfully and with the intention of  
16 causing confusion, mistake or deception.

17 43. By reason of Defendants' acts as alleged, Bagdasarian has and will suffer  
18 damage to its business reputation and good will, and the loss of sales and profits that  
19 Bagdasarian would have made but for Defendants' acts.

20 44. Unless restrained and enjoined by this Court, Defendants threaten to and  
21 will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It  
22 would be difficult to ascertain the amount of compensation that would afford  
23 Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial  
24 proceedings would be required. Thus, Bagdasarian's remedies at law are not adequate  
25 to compensate it for the threatened injuries.

26 45. Bagdasarian is entitled to injunctive relief, both preliminary and  
27 permanent, restraining Defendants and their agents, servants, employees and all  
28 persons acting under, in concert with, or on behalf of Defendants from using

1 Bagdasarian's Alvin and the Chipmunks service mark and trademarks in any channel  
2 of commerce and in any geographical territory in the world.

3 46. As a direct and proximate result of Defendants' conduct and actions, and  
4 each of them, Bagdasarian has also suffered damages in an amount to be proven in  
5 trial, plus interest at the legal rate thereon, but no less than \$1 million.

6 47. As a direct and proximate result of Defendants' wrongful conduct and  
7 actions, and each of them, Bagdasarian is informed and believes, and alleges thereon,  
8 that Defendants have been unjustly enriched in the sum of no less than \$1 million.

9 48. As a direct and proximate result of Defendants' wrongful conduct and  
10 actions, and each of them, Bagdasarian is entitled to restitution and a complete  
11 disgorgement of any and all amounts of money, revenue, or income Defendants have  
12 received as a result of their wrongful conduct as alleged above.

### 13 14 VI. THIRD CLAIM

15 Dilution Under Section 43(c) of the Lanham Act

16 (by Plaintiff against all Defendants)

17 49. Plaintiff restates each and every allegation contained in paragraphs 1-48  
18 above as if fully stated herein.

19 50. For the past 50 years, Plaintiff and its predecessors have developed the  
20 Alvin and the Chipmunks service mark and trademarks. They have created and  
21 distributed Alvin and The Chipmunks musical recordings, television programs,  
22 motion pictures, entertainment services, and associated merchandise.

23 51. As a result of the activities of Plaintiff and its predecessors, the mark  
24 Alvin and the Chipmunks has become famous in that it is widely recognized by the  
25 general consuming public of the United States as a designation of source of the goods  
26 and services of Plaintiff.

27 52. The mark Alvin and the Chipmunks is distinctive, both inherently and  
28 through acquired distinctiveness.



1           53. By their actions, Defendants have used Plaintiff's famous Alvin and the  
2 Chipmunks mark in commerce by cheapening the value of the famous marks in a way  
3 that is likely to cause dilution by blurring and/or dilution by tarnishment of the famous  
4 mark.

5           54. Defendants' dilution of Plaintiff's Alvin and the Chipmunks trademarks  
6 was undertaken willfully and with the intention of causing dilution, confusion,  
7 mistake, and deception.

8           55. By reason of Defendants' acts as alleged, Bagdasarian has and will suffer  
9 damage to its business reputation and good will in the loss of sales and profits that  
10 Bagdasarian would have made but for Defendants' actions.

11           56. Unless restrained and enjoined by this Court, Defendants threaten to and  
12 will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It  
13 would be difficult to ascertain the amount of compensation that would afford  
14 Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial  
15 proceedings would be required. Thus, Bagdasarian's remedy at law is not adequate to  
16 compensate it for the threatened injuries.

17           57. Bagdasarian is entitled to injunctive relief restraining Defendants and  
18 their agents, servants, employees, and all persons acting under, in concert with, or for  
19 Defendants from using Bagdasarian's Alvin and the Chipmunks trademark in any  
20 channel of commerce and in any geographical territory in the world.

21           58. As a direct and proximate result of Defendants' conduct and actions, and  
22 each of them, Bagdasarian has also suffered damages in an amount to be proven at  
23 trial, plus interest at the legal rate thereon, but no less than \$1 million.

24           59. As a direct and proximate result of Defendants' wrongful conduct and  
25 actions, and each of them, Bagdasarian is informed and believes, and alleges thereon,  
26 that Defendants have been unjustly enriched in the sum of no less than \$1 million.

27           60. As a direct and proximate result of the wrongful conduct of Defendants,  
28 Bagdasarian is entitled to restitution and a complete disgorgement of any and all

1 amounts of money, revenue or income Defendants received as a result of their  
2 wrongful conduct as noted above.

3  
4 VII. FOURTH CLAIM

5 Common Law Trademark Infringement

6 (by Plaintiff against all Defendants)

7 61. Plaintiff restates each and every allegation contained in paragraphs 1-60  
8 above as if fully stated herein.

9 62. As alleged above, Defendants' imitation and infringement of the  
10 trademark rights of Bagdasarian and the Alvin and the Chipmunks trademark is  
11 calculated to, and does in fact, deceive and mislead consumers of Bagdasarian's and  
12 of Nayco's, MBop's and San Juan's products to utilizing or purchasing products  
13 advertised or sold by Nayco, MBop and San Juan in the belief that they originate with  
14 Bagdasarian to the significant diminution of Bagdasarian's business and profits.

15 63. Unless restrained and enjoined by this Court, Defendants threaten to and  
16 will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It  
17 would be difficult to ascertain the amount of compensation that would afford  
18 Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial  
19 proceedings would be required. Thus, Bagdasarian's remedies at law are not adequate  
20 to compensate it for the threatened injuries.

21 64. Bagdasarian is entitled to injunctive relief, both preliminary and  
22 permanent, restraining Defendants and their agents, servants, employees and all  
23 persons acting under, in concert with, or on behalf of Defendants from using  
24 Bagdasarian's Alvin and the Chipmunks service mark and trademarks in any channel  
25 of commerce and in any geographical territory in the world.

26 65. As a direct and proximate result of Defendants' conduct and actions, and  
27 each of them, Bagdasarian has also suffered damages in an amount to be proven in  
28 trial, plus interest at the legal rate thereon, but no less than \$1 million.

66. As a direct and proximate result of Defendants' wrongful conduct and actions, and each of them, Bagdasarian is informed and believes, and alleges thereon, that Defendants have been unjustly enriched in the sum of no less than \$1 million.

67. As a direct and proximate result of Defendants' wrongful conduct and actions, and each of them, Bagdasarian is entitled to restitution and a complete disgorgement of any and all amounts of money, revenue, or income Defendants have received as a result of their wrongful conduct as alleged herein.

## VIII. FIFTH CLAIM

Unfair Competition Under California Business & Professions Code  
§17200, *et seq.*, and 17500, *et seq.*

(by Plaintiff against all Defendants)

68. Plaintiff restates each and every allegation contained in paragraphs 1-67 above as if fully stated herein.

69. The foregoing conduct by Defendants constitutes a violation of California Business & Professions Code §17200, *et seq.*, and 17500, *et seq.*, in that it constitutes false advertising, and illegal, fraudulent and unfair business practices which are, *inter alia*, likely to deceive a reasonable consumer.

70. Defendants' aforesaid acts constitute representations and/or statements that are deceptive, untrue, and misleading, and which were undertaken willfully and with the intention of causing confusion, mistake or deception.

71. Unless restrained and enjoined by this Court, Defendants threaten to and will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It would be difficult to ascertain the amount of compensation that would afford Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial proceedings would be required. Thus, Bagdasarian's remedy at law is not adequate to compensate it for injuries threatened.

72. Bagdasarian is entitled to injunctive relief restraining Defendants and

1 their agents, servants, employees and all persons acting under, in concert with, or for  
 2 Defendants from using Bagdasarian's Alvin and the Chipmunks service mark and  
 3 trademarks in any channel of commerce and in any geographical territory in the world.

## 4 5 IX. SIXTH CLAIM

### 6 Copyright Infringement

7 (by Plaintiff against all Defendants)

8 73. Bagdasarian restates each and every allegation contained in paragraph 1  
 9 through 72 above, as though fully stated herein.

10 74. The aforesaid acts of Defendants constitute infringement of  
 11 Bagdasarian's registered copyrights in the composition "The Chipmunk Song" and in  
 12 the Artwork, under the Copyright Act, 17 U.S.C. §101, *et seq.* Defendants have  
 13 violated Bagdasarian's exclusive rights in the composition and the Artwork by  
 14 unlawfully using them in Defendants' album without authorization.

15 75. By reason of Defendants' acts as alleged, Bagdasarian has suffered and  
 16 will suffer damage to its business, reputation and good will, and the loss of sales and  
 17 profits that Bagdasarian would have made, but for Defendants' unethical and illegal  
 18 acts.

19 76. Unless restrained and enjoined by this Court, Defendants threaten to and  
 20 will continue to do the acts complained of, all to Bagdasarian's irreparable damage. It  
 21 would be difficult to ascertain the amount of compensation that would afford  
 22 Bagdasarian adequate relief for such continuing acts, and a multiplicity of judicial  
 23 proceedings would be required. Thus, Bagdasarian's remedies at law are not adequate  
 24 to compensate it for the threatened injuries.

25 77. Bagdasarian is entitled to injunctive relief, both preliminary and  
 26 permanent, restraining Defendants and their agents, servants, employees and all  
 27 persons acting under, in concert with, or on behalf of Defendants from using  
 28 Bagdasarian's copyrighted composition or Artwork in any channel of commerce and

1 in any geographical territory in the world.

2 78. Bagdasarian is informed and believes and thereupon alleges that  
3 Defendants infringed Bagdasarian's copyrights with knowledge that their acts were  
4 unlawful. Defendants' infringing acts were and continue to be committed willfully.

5 79. As a direct and proximate result of Defendants' conduct and actions,  
6 Bagdasarian has also suffered damages in an amount to be proven at trial, plus interest  
7 at the legal rate thereon, and is entitled, at its election, to a) all damages suffered by  
8 Bagdasarian, along with all gains, profits and advantages derived by Defendants from  
9 the acts of infringement, or b) statutory damages as provided for in the Copyright Act.

10 80. Bagdasarian is also entitled to attorney's fees as provided for in the  
11 Copyright Act.

## 12 PRAYER FOR RELIEF

13 WHEREFORE, plaintiff Bagdasarian, a California limited liability company,  
14 respectfully demands judgment in its favor, and as and against all defendants, and  
15 each of them, as follows:  
16

17 1. On counts 1 through 4, for general damages and compensation believed  
18 to be in excess of \$1 million in accordance with the proof at the time of trial;

19 2. On counts 1 through 4, for special damages according to proof, but no  
20 less than \$1 million;

21 3. On counts 1 through 4, for an order of equitable disgorgement of all  
22 unjust enrichment received by defendants as a result of the wrongful acts and practices  
23 described hereinabove in an amount in accordance with proof at the time of trial, but  
24 believed to be in excess of \$1 million;

25 4. On counts 1-3, for treble damages in accordance with the Lanham Act  
26 §1117(a);

27 5. On count 4, for punitive and exemplary damages under California law in  
28 an amount sufficient to deter and make an example of defendants in accordance with



1 the proof at the time of trial;

2 6. On count 6, for a) all damages suffered by Bagdasarian, along with all  
3 gains, profits and advantages derived by Defendants from the acts of infringement, or  
4 b) statutory damages as provided for under 17 U.S.C. §504, at Plaintiff's election;

5 7. On all counts, for prejudgment interest;

6 8. On counts 1-6, for preliminary and permanent injunctive relief enjoining  
7 and requiring Defendants, their officers, agents, servants, employees, attorneys,  
8 parents, subsidiaries and related companies, and all persons acting for, with, by,  
9 through or under them to:

10 (a) cease and desist from all use of Plaintiff's copyrighted composition  
11 "The Chipmunk Song" and Plaintiff's copyrighted Artwork, including all production,  
12 distribution, marketing or sales of any unauthorized recordings of "The Chipmunk  
13 Song" or any products exploiting the Artwork;

14 (b) delete from their computer files, menus, hard drives, servers,  
15 diskettes, backups and websites any and all copies of Plaintiff's copyrighted  
16 composition "The Chipmunk Song" and Plaintiff's Artwork, and any and all copies of  
17 unauthorized recordings of "The Chipmunk Song";

18 (c) to be required to deliver up to Plaintiff to be held for destruction at  
19 the conclusion of this action any and all computer software, compact discs, inventory,  
20 packaging, labels, sales material, press releases, promotional material, advertising  
21 material, stationery, plates, products, goods, and other materials containing or  
22 exploiting Plaintiff's copyrighted composition "The Chipmunk Song" or Plaintiff's  
23 copyrighted Artwork;

24 (d) cease and desist from all use of Plaintiff's service mark and  
25 trademarks;

26 (e) delete from their computer files, menus, hard drives, servers,  
27 diskettes, backups and websites any copies, simulations, variations or colorable  
28 imitations thereof, and any use of the Alvin and the Chipmunks trademark;

1 (f) to be required to deliver up to Plaintiff to be held for destruction at  
2 the conclusion of this action any and all computer software, compact discs, inventory,  
3 packaging, labels, sales material, press releases, promotional material, advertising  
4 material, stationery, plates, products, goods, and other materials bearing the Alvin and  
5 the Chipmunks trademark or artwork;

6 9. On counts 1-4 and 6, for attorneys' fees and costs of suit incurred in this  
7 action as provided by 15 U.S.C. §1117(a), 17 U.S.C. §505, or as otherwise provided  
8 by law; and

9 10. For such other and further relief as the Court deems proper.

10  
11 DATED: June 21, 2011

LEOPOLD, PETRICH & SMITH  
A Professional Corporation

12  
13  
14 By: 

VINCENT COX  
ELIZABETH L. SCHILKEN  
Attorneys for Plaintiff  
BAGDASARIAN PRODUCTIONS, LLC

1 DEMAND FOR JURY TRIAL

2 Plaintiff hereby requests trial by jury.

3  
4 DATED: June 21, 2011

LEOPOLD, PETRICH & SMITH  
A Professional Corporation

5  
6  
7 By: 

VINCENT COX  
ELIZABETH L. SCHILKEN  
Attorneys for Plaintiff  
BAGDASARIAN PRODUCTIONS, LLC

## **EXHIBIT A**



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**ALVIN AND THE CHIPMUNKS**

<b>Word Mark</b>	<b>ALVIN AND THE CHIPMUNKS</b>
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: Motion Picture films featuring all of or a combination of the following, comedy, drama, action, adventure or animation; motion picture films for broadcast on television featuring all or a combination of the following, comedy, drama, action, adventure or animation; audio video discs, and digital versatile discs featuring all of or a combination of the following music, comedy, drama, action, adventure and animation; interactive video game programs and computer game programs; video game cartridges and cassettes, video and computer game software. FIRST USE: 19921201. FIRST USE IN COMMERCE: 19921201
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77213550
<b>Filing Date</b>	June 22, 2007
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 4, 2008
<b>Change In Registration</b>	CHANGE IN REGISTRATION HAS OCCURRED



Registration Number 3429855  
Registration Date May 20, 2008  
Owner (REGISTRANT) Bagdasarian Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1192  
E. Mountain Drive Montecito CALIFORNIA 93108  
Attorney of Record I. Morley Drucker, Esq.  
Prior Registrations 2864434;2935726  
Type of Mark TRADEMARK  
Register PRINCIPAL  
Live/Dead Indicator LIVE

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**ALVIN AND THE CHIPMUNKS**

<b>Word Mark</b>	<b>ALVIN AND THE CHIPMUNKS</b>
<b>Goods and Services</b>	IC 025, US 022 039. G & S: CLOTHING FOR MEN, WOMEN AND CHILDREN, NAMELY, SHIRTS, T-SHIRTS, SWEATSHIRTS, [ JOGGING SUITS, TROUSERS, PANTS, SHORTS, TANK TOPS, RAINWEAR, CLOTH BABY BIBS, SKIRTS, BLOUSES, DRESSES, SUSPENDERS, SWEATERS, JACKETS, COATS, RAINCOATS, SNOW SUITS, TIES, ROBES, ] HATS, CAPS, [ SUNVISORS, BELTS, ] SCARVES [ , SLEEPWEAR, PAJAMAS, LINGERIE, UNDERWEAR, BOOTS, SHOES, SNEAKERS, SANDALS, BOOTIES, SLIPPER SOCKS, SWIMWEAR AND MASQUERADE AND HALLOWEEN COSTUMES AND MASKS SOLD IN CONNECTION THEREWITH ]. FIRST USE: 19831231. FIRST USE IN COMMERCE: 19831231
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	77213587
<b>Filing Date</b>	June 22, 2007
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	February 19, 2008
<b>Change In Registration</b>	CHANGE IN REGISTRATION HAS OCCURRED

**Registration Number** 3421801  
**Registration Date** May 6, 2008  
**Owner** (REGISTRANT) Bagdasarian Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1192 E. Mountain Drive Montecito CALIFORNIA 93108  
**Attorney of Record** I. Morley Drucker, Esq.  
**Prior Registrations** 2864434;2935726  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## ALVIN AND THE CHIPMUNKS

**Word Mark** **ALVIN AND THE CHIPMUNKS**  
**Goods and Services** IC 028. US 022 023 038 050. G & S: [ Action figures and accessories therefor; ] plush toys; [ balloons; bathtub toys; ride-on toys; equipment sold as a unit for playing card games; toy vehicles; ] dolls; [ flying discs; hand-held unit for playing electronic games; game equipment sold as a unit for playing a board game, a card game, a manipulative game, a parlor game and an action type target game; stand alone video output game machines; jigsaw and manipulative puzzles; ] paper face masks [ ; skateboards; water squirting toys; balls, namely, playground balls, soccer balls, baseballs, basketballs; baseball gloves; swimming floats for recreational use; kickboard flotation devices for recreational use; surfboards; swim boards for recreational use; swim fins; toy bakeware and toy cookware; toy banks; toy snow globes; and Christmas tree ornaments ]. FIRST USE: 19631231. FIRST USE IN COMMERCE: 19631231

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77213609

**Filing Date** June 22, 2007

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** February 26, 2008

**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** 3425740  
**Registration Date** May 13, 2008  
**Owner** (REGISTRANT) Bagdasarian Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1192 E. Mountain Drive Montecito` CALIFORNIA 93108  
**Attorney of Record** I. Morley Drucker, Esq.  
**Prior Registrations** 2864434;2935726  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## Typed Drawing

<b>Word Mark</b>	ALVIN AND THE CHIPMUNKS
<b>Goods and Services</b>	IC 041. US 100 101 107. G & S: Entertainment services-- namely- a series of TV cartoons. FIRST USE: 19830917. FIRST USE IN COMMERCE: 19830917
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76505140
<b>Filing Date</b>	April 9, 2003
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	January 4, 2005
<b>Registration Number</b>	2935726
<b>Registration Date</b>	March 29, 2005
<b>Owner</b>	(REGISTRANT) Bagdasarian Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1192 East Mountain Dr. Montecito CALIFORNIA 93108
<b>Attorney of Record</b>	I. Morley Drucker, Esq.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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## ALVIN AND THE CHIPMUNKS

**Word Mark** **ALVIN AND THE CHIPMUNKS**

**Goods and Services** IC 016. US 002 005 022 023 029 037 038 050. G & S: Printed matter and paper goods, namely, a series of books featuring characters from animated, action adventure, comedy and/or drama features, [comic books,] children's books, [magazines featuring characters from animated, action adventure, comedy and drama features, coloring books, children's activity books; stationery, writing paper, envelopes, notebooks, diaries, note cards,] greeting cards, [trading cards,] lithographs; pens, [pencils, pen and pencil cases, erasers, crayons, markers, colored pencils, painting sets for children, chalk and chalkboards for school and home use; decals, heat transfer papers,] posters; mounted and unmounted photographs; book covers, book marks, calendars, gift wrapping paper; paper party favors and paper party decorations, namely, paper napkins, paper place mats, crepe paper, printed invitations, invitation cards, paper table cloths, paper cake decorations; printed paper design patterns for embroidery or fabric appliques; printed patterns for costumes, pajamas, sweatshirts and t-shirts]. FIRST USE: 19591231. FIRST USE IN COMMERCE: 19591231

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77213569

**Filing Date** June 22, 2007

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** October 14, 2008  
**Change In Registration** CHANGE IN REGISTRATION HAS OCCURRED  
**Registration Number** 3552620  
**Registration Date** December 30, 2008  
**Owner** (REGISTRANT) Bagdasarian Productions, LLC LIMITED LIABILITY COMPANY CALIFORNIA 1192 E. Mountain Drive Montecito CALIFORNIA 93108  
**Attorney of Record** I. Morley Drucker,  
**Prior Registrations** 2864434;2935726  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

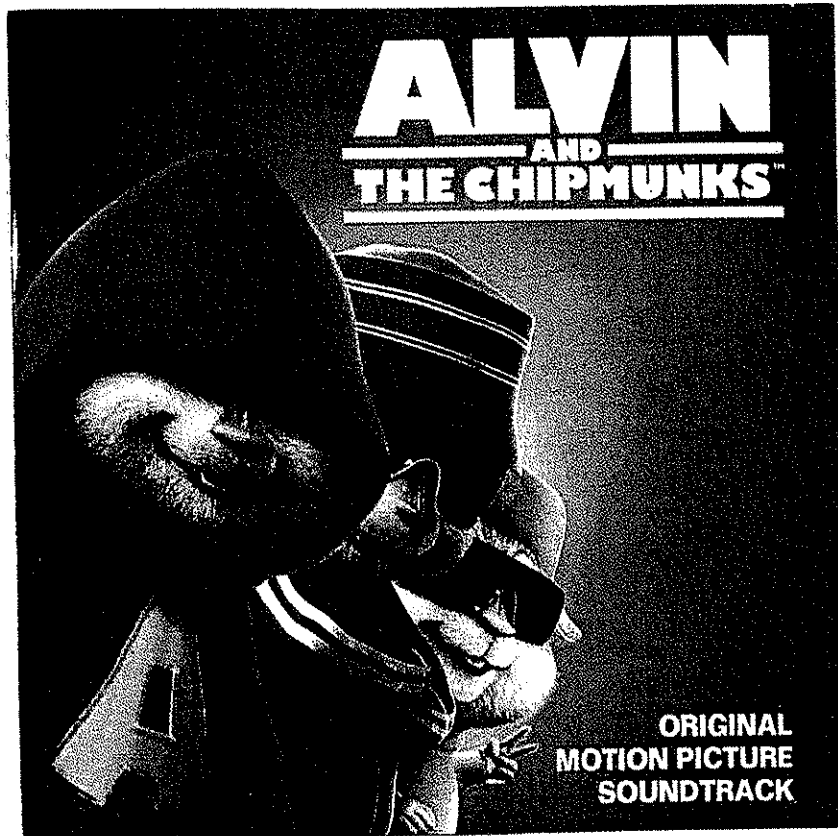
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## **EXHIBIT B**



- 1 BAD DAY  
 2 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE) (DeeTown OG Mix)  
 3 FOLLOW ME NOW 4 HOW WE ROLL  
 5 WITCH DOCTOR 6 COME GET IT  
 7 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE) (DeeTown Rock Mix)  
 8 FUNKYTOWN 9 GET YOU GOIN' 10 COAST 2 COAST  
 11 MESS AROUND 12 ONLY YOU (AND YOU ALONE)  
 13 AIN'T NO PARTY 14 GET MUNK'D  
 15 WITCH DOCTOR\* 16 THE CHIPMUNK SONG (CHRISTMAS DON'T BE LATE)\*  
 \* Bonus Tracks - Stereo Versions



FOX 2000 PICTURES AND REGENCY ENTERPRISES PRESENT A BADGASARIAN COMPANY PRODUCTION "ALVIN AND THE CHIPMUNKS"  
 JASON LEE DAVID CROSS CAMERON RICHARDSON AND JUSTIN LONG MATTHEW GRAY GUBLER JESSE MCCARTNEY JULIANNE JORDAN  
 CHRISTOPHER LAMBERTZ ALLIE THEODORE RHYTHM & BUES STUDIOS PETER BERGER & CO. RICHARD HOLLAND  
 PETER LYONS COLLISTER AND KAREN ROSENWALT ARNOLD KILCHMAN MICHELE IMPERATO STABLE STEVE WATERMAN  
 JANICE KARIMAN ROSS BADGASARIAN AND JASON LEE DAVID CROSS ALLIE THEODORE RHYTHM & BUES STUDIOS PETER BERGER & CO. RICHARD HOLLAND  
 JON VITTI WILL McROBB CHRIS VISCARDI  
 RAZOR & TIE alvinandthechipmunksmovie.com razorandtie.com TIM HILL



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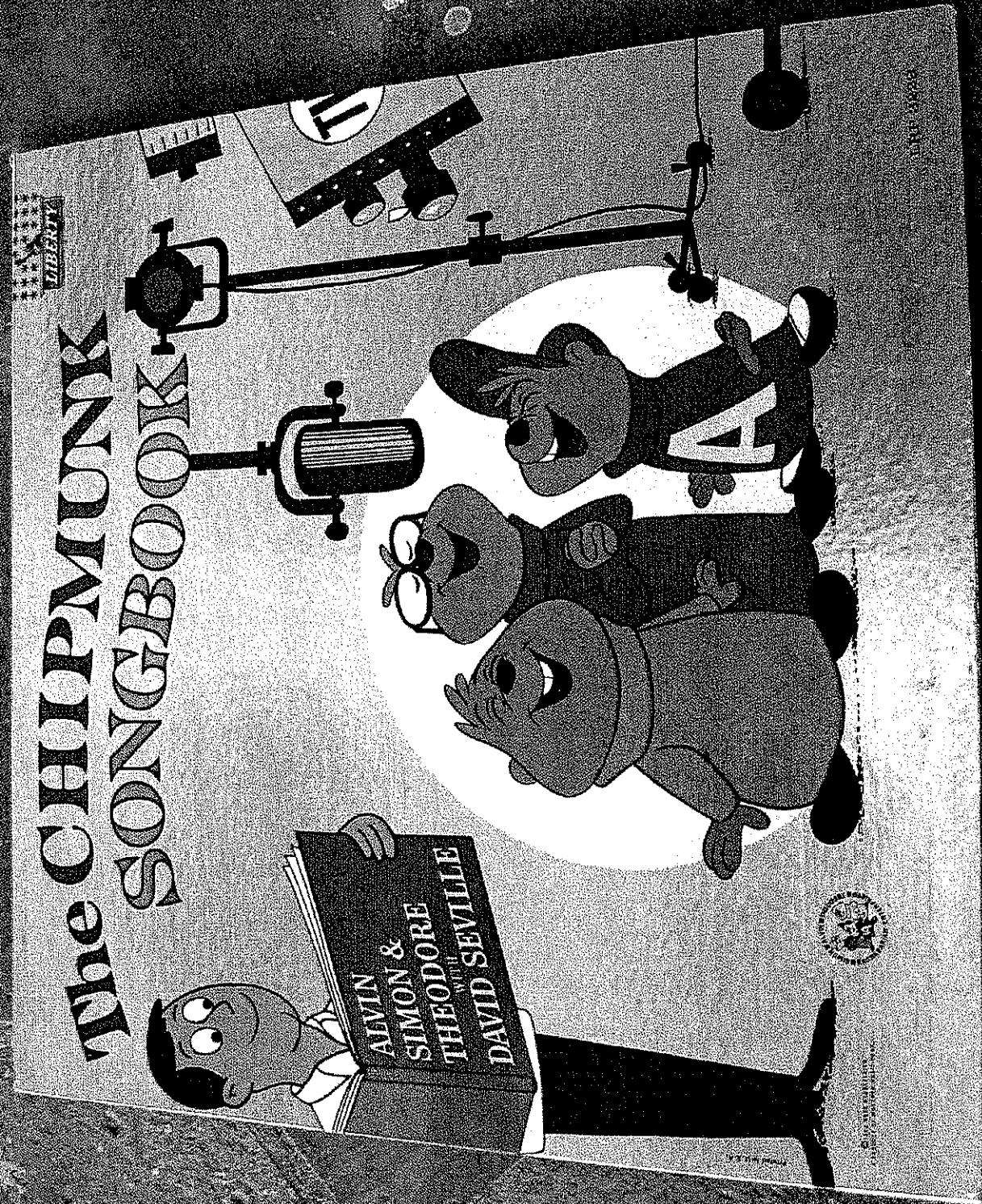
## **EXHIBIT C**





## **EXHIBIT D**







## **EXHIBIT E**

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## Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Copyright Number = RE0000315031

Search Results: Displaying 1 of 1 entries



Labeled View

*The Chipmunk song. w & m Ross Bagdasarian.*

**Type of Work:** Music

**Registration Number / Date:** RE0000315031 / 1986-12-22

Renewal registration for: EP0000124124 / 1958-10-31

**Title:** The Chipmunk song. w & m Ross Bagdasarian.

**Copyright Claimant:** Armen Bagdasarian (W), Ross Bagdasarian, Carol Bagdasarian, Adam Bagdasarian (C)

**Variant title:** The Chipmunk song

**Other Title:** Christmas, don't be late.

**Names:** [Bagdasarian, Ross](#)  
[Bagdasarian, Armen](#)  
[Bagdasarian, Ross](#)  
[Bagdasarian, Carol](#)  
[Bagdasarian, Adam](#)



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## Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Copyright Number = RE0000363178

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Labeled View

*Chipmunk song. Added dialogue: Ross Bagdasarian.*

**Type of Work:** Music

**Registration Number / Date:** RE0000363178 / 1987-12-23

Renewal registration for: EP0000126961 / 1959-01-28

**Title:** Chipmunk song. Added dialogue: Ross Bagdasarian.

**Copyright Claimant:** Armen Bagdasarian (W), Ross Bagdasarian, Carol Bagdasarian & Adam Bagdasarian (C)

**Basis of Claim:** New Matter: added dialogue.

**Variant title:** Chipmunk song.

**Names:** [Bagdasarian, Ross](#)  
[Bagdasarian, Armen](#)  
[Bagdasarian, Ross](#)  
[Bagdasarian, Carol](#)  
[Bagdasarian, Adam](#)



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## Public Catalog

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Search Request: Left Anchored Copyright Number = RE0000509368

Search Results: Displaying 1 of 1 entries



Labeled View

*The Chipmunk songbook. By Ross Bagdasarian.*

**Type of Work:** Visual Material

**Registration Number / Date:** RE0000509368 / 1990-12-26

Renewal registration for: KK0000166140 / 1962-05-14

**Title:** The Chipmunk songbook. By Ross Bagdasarian.

**Copyright Claimant:** Armen Bagdasarian (W), Ross Bagdasarian, Carol Bagdasarian McCrea & Adam Bagdasarian (C)

**Basis of Claim:** New Matter: print or label for phonograph recordings.

**Variant title:** The Chipmunk songbook

**Names:** [Bagdasarian, Ross](#)

[Bagdasarian, Armen](#)

[McCrea, Carol Bagdasarian](#)

[Bagdasarian, Adam](#)



### Save, Print and Email ([Help Page](#))

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Click the "Application Name" link in the table below to view a printable copy of the application for the corresponding case.

To search your applications, click the "Query" button.

**My Applications**


Application Name	Case #	Title	Receipt Date	Status
1-615044811_Application_20110602_194515	1-615044811	Alvin and The Chipmunks color image	6/2/2011	Open

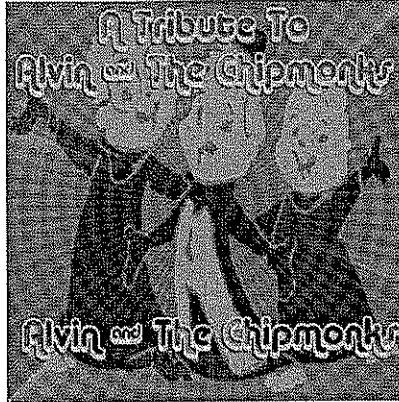
Privacy Act Notice: Sections 408-410 of title 17 of the United States Code authorize the Copyright Office to collect the personally identifying information requested on this form in order to process the application for copyright registration. By providing this information you are agreeing to routine uses of the information that include publication to give legal notice of your copyright claim as required by 17 U.S.C. § 705. It will appear in the Office's online catalog. If you do not provide the information requested, registration may be refused or delayed, and you may not be entitled to certain relief, remedies, and benefits under the copyright law.

[+]  
 FEEDBACK

## **EXHIBIT F**

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Original Release Date: December 1, 2008

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## MP3 Songs

Song Title	Time	Price
1. Ain't No Party	2:46	Not Available
2. Bad Day	3:36	Not Available
3. Bad Day (Melody Remix)	3:36	Not Available
4. Coast 2 Coast	2:46	Not Available
5. Follow Me Now	3:12	Not Available
6. Follow Me Now (Melody Remix)	3:10	Not Available
7. Funky Town	3:39	Not Available
8. Get You Goin'	3:20	Not Available
9. How We Roll	3:56	Not Available
10. Mess Around	3:22	Not Available
11. The Chipmunk Song (Christmas Don't Be Late)	2:16	Not Available
12. Witch Doctor	3:02	Not Available

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## Product Details

Original Release Date: December 1, 2008

Label: Mbop Direct - Nayco Entertainment

Copyright: 2008 Nayco Entertainment

Genres: [Children's Music/General](#)

ASIN: B001PM84SM

Average Customer Review: [Be the first to review this item](#)Amazon Bestsellers Rank: #15,668 Paid in MP3 Albums (See [Top 100 Paid in MP3 Albums](#))

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Christina A. Snyder and the assigned discovery Magistrate Judge is Michael Wilner.

The case number on all documents filed with the Court should read as follows:

**CV11- 5270 CAS (MRWx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

VINCENT COX (State Bar No. 070511)  
 ELIZABETH L. SCHILKEN (State Bar No. 241231)  
 LEOPOLD, PETRICH & SMITH, P.C.  
 2049 Century Park East, Suite 3110  
 Los Angeles, California 90067-3274  
 Tel: (310) 277-3333 • Fax: (310) 277-7444

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

BAGDASARIAN PRODUCTIONS, LLC, a  
 California limited liability company

CASE NUMBER

PLAINTIFF(S)

v.

THE JERRY NAYLOR COMPANY, LLC,

**LACV11-5270 CASIMRWX**

SUMMONS

DEFENDANT(S).

*SEE Attachment*

TO: DEFENDANT(S): The Jerry Naylor Company, LLC, dba Nayco Entertainment Group; Jerry Naylor; San Juan Music Group Ltd.; Michael Chernow; and Megabop Records Ltd., trading as MBOP Digital

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Vincent Cox, whose address is Leopold, Petrich & Smith, 2049 Century Park East, Suite 3110, Los Angeles, CA 90067. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUN 23 2011

By: 

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ORIGINAL

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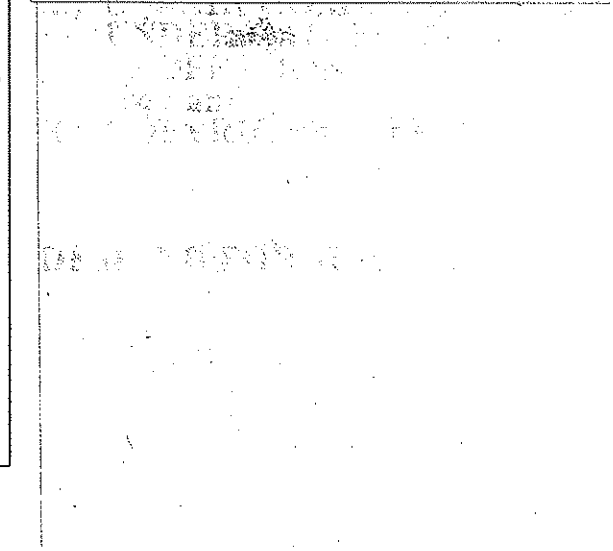
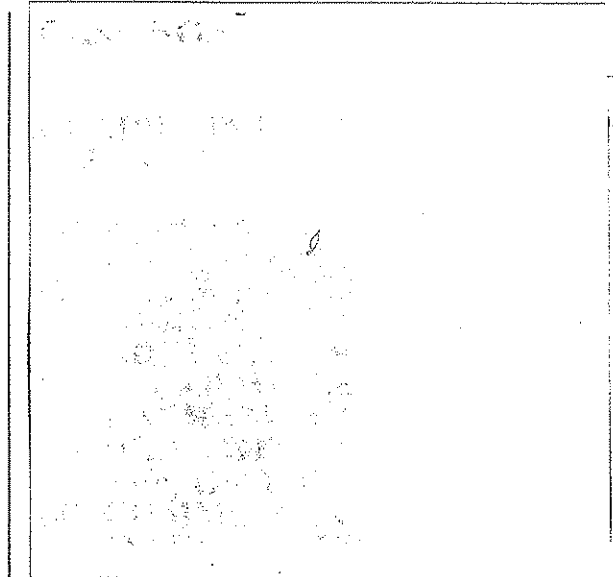
BAGDASARIAN PRODUCTIONS,  
LLC, a California limited liability  
company,

Plaintiff,

v.

THE JERRY NAYLOR COMPANY,  
LLC, an Oregon limited liability  
company, dba NAYCO  
ENTERTAINMENT GROUP, JERRY  
NAYLOR, an individual, SAN JUAN  
MUSIC GROUP LTD., a New Jersey  
corporation, MICHAEL CHERNOW, an  
individual, MEGABOP RECORDS LTD.,  
trading as MBOP DIGITAL, and DOES  
1-10, inclusive,

Defendants.



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> )  BAGDASARIAN PRODUCTIONS, LLC, a California limited liability company		<b>DEFENDANTS</b> THE JERRY NAYLOR COMPANY, LLC, dba NAYCO ENTERTAINMENT GROUP; JERRY NAYLOR; SAN JUAN MUSIC GROUP LTD.; MEGABOP RECORDS, LTD., trading as MBOP DIGITAL; and DOES 1-10, inclusive	
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) VINCENT COX; ELIZABETH SCHILKEN; Leopold, Petrich & Smith, P.C., 2049 Century Park East, Suite 3110, Los Angeles, CA 90067, Tel: 310-277-3333 Fax: 310-277-7444		Attorneys (If Known)	

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>																				
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)  
☒ 1 Original Proceeding     ☐ 2 Removed from State Court     ☐ 3 Remanded from Appellate Court     ☐ 4 Reinstated or Reopened     ☐ 5 Transferred from another district (specify):     ☐ 6 Multi-District Litigation     ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes     ☐ No (Check 'Yes' only if demanded in complaint.)  
**CLASS ACTION** under F.R.C.P. 23: ☐ Yes     ☒ No     **MONEY DEMANDED IN COMPLAINT:** \$ 1,000,000

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 15 U.S.C. §1051 (Trademark Infringement); 17 U.S.C. §101 (Copyright Infringement)

**VII. NATURE OF SUIT** (Place an X in one box only.)
 

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input checked="" type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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LACV11-5270

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
BAGDASARIAN PRODUCTIONS, LLC Santa Barbara County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	THE JERRY NAYLOR CO., LLC - Oregon SAN JUAN MUSIC GROUP LTD. - New Jersey MEGABOP RECORDS LTD. - Great Britain

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Santa Barbara County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note: In land condemnation cases, use the location of the tract of land involved.**

**X. SIGNATURE OF ATTORNEY (OR PRO PER):** Verment Cox **Date** June 22, 2011

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

**Key to Statistical codes relating to Social Security Cases:**

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))